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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
May 25, 2005**

**Present:** Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Gary Pace, County Superintendent of Schools; Ben Sautter, Road/Solid Waste Supervisor; Larry Healy, Job Corps; Jack Hancock, Job Corps IUOE; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Peggy Morales, Mike Baker, Rick Saunders, Ken Vivrette, Wayne Mattioli, Barbara Kyler, Bruce Suenram, Pat Bauernfeind, Robert Donat, Sabrina Steketee, Gail Lattin, Janie Wunderwald

**MINUTES**

Commissioner Weber moved to approve the minutes of May 4. Commissioner Notbohm seconded. The motion carried.

Commissioner Lythgoe moved to approve the minutes of May 11. Commissioner Weber seconded. The motion carried.

**SUBDIVISION REVIEW**

**DISCUSS LIFTING OF AG COVENANT ON VIRGINIA AND PAM BOMPART PROPERTY  
ON McCLELLAN CREEK ROAD**

Harold stated that this is a tract of land zoned agricultural. This needs to be lifted by the landowner and the Commission. The surrounding land is residential. Ken Vivrette stated that this property borders Saddle Mountain III and other residential. The intent is to have two acre lots. There are also some archaeological sites on the property, and these would be blocked off. Commissioner Weber asked if all the surrounding land is residential. Ken stated that it is.

Commissioner Lythgoe moved to lift the ag zoning on the Virginia and Pam Bompart property as described in exhibit A in the correspondence to the Commission. Commissioner Notbohm seconded. The motion carried.

## **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

### **DISCUSS AND DECIDE ON AMENDMENTS TO COUNTY ROAD STANDARDS**

Commissioner Lythgoe stated that there is nothing different with the amendments at this time. The Commissioners have made their comments and Ben will be meeting with Alan Erickson the next day. He stated that the changes to the amendments should be on the website by the first of the week. Commissioner Weber asked if anyone had any additional comments.

Rick Saunders stated that he has measured some county roads in the south end, and some are as narrow as 10 feet. He suggested that before the amendments are adopted, the county enforces the old ones. Commissioner Weber stated that it is important to note that the road department isn't enforcing anything. He stated that they certainly are trying to address the problems with roads, but they are basically working with a maintenance budget.

Mike Baker stated that currently it is considered high density for a subdivision with 1 acre lots; the amendments states 2 acres. He stated that he hopes the Commission will leave this at 1 acre.

Bob Donat stated that no one needs to feel threatened; he isn't threatening anyone. He stated that he hopes the Commission will hold off on the amendments until some who have projects underway have completed them.

### **DISCUSS BOARD OF ADJUSTMENT RECOMMENDATION TO REVISIT AND UPDATE NORTH JEFFERSON COUNTY ZONING REGULATIONS**

Bruce Suenram stated that the Board of Adjustment has been struggling with several projects that don't fit into the zoning regulations. The last was a four-plex. The whole northern border, from Saddle Mountain north to the county line, is being developed. Most of this area is basic resource or ???, which will be in conflict with what is happening. The county needs to do something with the zoning regulations. It is getting frustrating to tell developers that they don't have a good project, when they probably do. Ken Vivrette stated that the whole south end of Lewis & Clark County is dictating to the north end of Jefferson County. Land sales are coming, as well as businesses.

Commissioner Lythgoe stated that he has thought for a long time that they need to revisit the zoning. He asked Harold if they can tweak what they currently have, or if they have to reopen the entire thing. Harold stated that he is not sure, but it will have to be citizen board whatever they do. Commissioner Lythgoe stated that it would be best to have a citizen board, and asked that Harold research this. Ken Vivrette stated that he knows what is involved, and it is a good idea to go to the landowners for input. Commissioner Lythgoe stated that there is one area, the Jackson Creek Road area, that will want opened up also; they will want to open the whole thing. Commissioner Lythgoe stated that he thinks they will have to reopen the entire zoning process.

Commissioner Weber asked what definition of north Jefferson County they are going for. Are they going by voting district, or has this been discussed. Bruce stated that they haven't discussed this yet. Their concerns are 1) there needs to be some sort of transition area, no more

than a mile from the county line and 2) the zoning regulations are seven years old. They now know better what glitches are in the regulations. Commissioner Lythgoe asked how far the current zoning district extends. Harold stated that it is halfway to Clancy, north. Commissioner Lythgoe asked if the zoning is reopened, is there a possibility that the boundaries would change. Harold stated that he lives in Clancy, and he doesn't think that there would be much interest. Commissioner Notbohm noted that zoning is implemented by the public, and stated that if it is opened up, there may be people who want out, rather than in. Commissioner Lythgoe stated that he can see that happening.

Harold gave an example of commercial zoning, stating that there is a 300-foot strip on 282 that was to be commercial. When the Montana City Ranches subdivision was done, the Commission decided to make that strip residential. Harold stated that they can't do that. Commissioner Lythgoe stated that Commissioner Notbohm is correct; the end product has to come from the public. Commissioner Weber stated that he thinks they may see more people opt in who opted out last time, who now want to develop. Bruce stated that maybe Harold could work with Matt to see what can be done, rather than making this wide open. Commissioner Lythgoe stated that up Jackson Creek Road, there are a couple ranches that are zoned basic resource, that don't want to be there. Dad wanted it in basic resource, but the kids don't. They need to open up everything, rather than hot spots. Bruce stated that this will take a lot longer than it needs to; maybe up to a year. Commissioner Lythgoe asked Ken Vivrette if he agrees with this, that there will be more interest than in just the hot spots. Ken stated that there will be more hot spots, but also an immediate need, and that is to deal with what Lewis & Clark County is doing. He suggested that maybe the zoning can be dealt with in two phases. Harold stated that they may be able to do something with emergency zoning and go in and do the other at a slower pace. Commissioner Lythgoe asked who would do the tweaking. Harold stated that it would still need to be a citizen board.

**RESOLUTION 14-2005 APPOINT SPECIAL DEPUTY COUNTY ATTORNEY DUE TO CONFLICT**

Commissioner Weber read the resolution as follows:

**RESOLUTION 14-2005**

**RESOLUTION TO APPOINT A SPECIAL DEPUTY COUNTY ATTORNEY**

**WHEREAS**, Mathew J. Johnson has a conflict of interest in prosecuting a Montana Department of Transportation case currently pending within Jefferson County; and

**WHEREAS**, Timothy W. Reardon and Stephen F. Garrison have been appointed by the State of Montana to handle Department of Transportation cases within Jefferson County; and

**WHEREAS**, it is desired and deemed appropriate that they be appointed as special

deputy county attorneys to handle the aforementioned case for the State of Montana, Jefferson County;

**NOW, THEREFORE, BE IT RESOLVED** that Timothy W. Reardon and Stephen F. Garrison are hereby appointed as special deputy county attorneys for Jefferson County for the purpose of handling one particular investigation and possible prosecution for MDT.

**BE IT FURTHER RESOLVED** that the Montana Department of Transportation shall pay all costs of investigation and handling of the said investigation and possible prosecution.

**DATED** this 25<sup>th</sup> day of May, 2005.

**ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**CHUCK NOTBOHM, COMMISSIONER**

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**KEN WEBER, COMMISSIONER**

Commissioner Lythgoe moved to adopt the resolution. Commissioner Notbohm seconded. The motion carried.

**DISCUSS COUNTY SUPPORT OF ANACONDA JOB CORPS BERNICE ROAD  
IMPROVEMENT PROJECT**

Jack Hancock and Larry Healy came to discuss the Job Corps project they are doing in the Bernice area. Jack stated that he had sent some paperwork to Ben, and the Commissioners wanted more information on the project. Regarding how many Jefferson County students have been through the program, he can't break it down by county, but he has a list of all the students that have participated since 2001.

Commissioner Weber stated that some of the questions he has are what was the agreement with the county in the past, and what are the changes. Jack stated that the agreement dates back to 1984. That agreement states that Jefferson County would provide pretty much everything that he has recently requested. Because of scheduling, they didn't start on the project until 2001. There was an agreement at that time with Commissioner Samson that Jefferson County would only provide fuel. He stated that all the other counties they work with provide everything that he requested in the letter.

Larry stated that they get \$700 per year, per student for the program. In the past they have borrowed from other trade programs, but they can't do that any longer.

Commissioner Notbohm stated that one thing he asked about was where the students were from. Kids are kids, but he is glad to see some from the area. Regarding the budget, he asked Ben how the expense has increased from the past. Ben stated that in the past, he has absorbed the fuel cost. This year, based on his estimates, the fuel cost will double. Along with the extra items requested, he can't absorb the cost any longer. That is why he has brought this to the Commission. He also asked about next spring. They are looking at about \$20,000.

Commissioner Notbohm asked Ben if he is saying that the county's cost for the project has gone from \$6,000 to \$20,000. Ben stated that if the project runs into next year, yes, with the addition of the extra items. Commissioner Weber asked if this is going from today forward, from July forward; is he asking the Commission for \$14,000 and the road department will pay the same \$6,000? What amount is Ben looking for. Ben stated that this is for July 1 forward; he has already committed to the current budget year. He asked Jack if he thinks the project will stretch into next spring. Jack stated that when he sent the letter, he thought that they could be done by October 20. Since then, they have lost four senior students. Because of this, they are going at a slower rate, so they are using less fuel. Also with the weather, they are not making good progress. Commissioner Lythgoe noted that finishing in October isn't looking good.

Commissioner Weber stated that the way he understands the letter, if they have down time, the county doesn't absorb the cost. Commissioner Lythgoe asked, for those interested, that Jack give a short description of the project. Jack stated that they are reconstructing the road from the interstate up to White House campground, and they are in the last part of the project. There won't be much left if they are not done by October. Larry asked the Commission to consider what this would cost the county if they were to hire someone to do this. Jack noted that a secondary road cost a million dollars a mile. Larry noted that the county is getting a service for their money. Commissioner Weber stated that he used to log up that road, and said that they are doing a great job.

Commissioner Lythgoe stated that they are just getting into the budget, and asked when they need an answer. Commissioner Weber asked Ben if he addressed the \$6,000 in his budget. Ben stated that he doesn't remember exactly, but he thinks that he budgeted for this through October. Larry noted that they are using surplus equipment, and are trying to keep costs down. Commissioner Lythgoe stated that he appreciates them coming. They are providing a great benefit to the County, and the youth portion of this is huge. Ben asked if they are looking at doing any more projects in Jefferson County in the future. Larry stated that they are doing some projects in the surrounding area, and to let him know if the county has something for them. The problem is that those higher in the organization want the counties to pay for everything, which just isn't feasible.

#### DISCUSS AND DECIDE ON RENAMING WARREN ROAD TO HISTORIC NAME OF KYLER LANE

Gary Pace stated that this is a historic road, and he feels that it should be renamed for the Kyler Ranch. He stated that the County had the option to close the road in the 1980s, where it extends

from Muskrat to the highway, and they kept it open. He felt that this is something that the Commission should address, and he asked Ben for direction. Gail Kyler Lattin stated that she grew up on the Kyler ranch, her father was born and raised on the ranch. Her grandfather purchased the ranch when he was 27. He was raised by the Sloan family, and the road adjacent to the ranch is Sloan's Lane. The ranch was sold several years after her father's death, but she and her sister retain some of the land. She still lives there, as does her grandson, the fifth generation on the ranch. Barbara Kyler stated that she would love to have the family acknowledged for all the years they have been a part of the community.

Commissioner Weber stated that there is some confusion as to what the road is called now. Gail stated that it is Upper Valley to the Muskrat turnoff. Gary stated that it has never been addressed. He noted that he rides his bike up there, and it has been a terrible road, although the road department has just fixed it and it is much better now.

Commissioner Notbohm stated that there are a couple other opinions that need to be heard. Commissioner Lythgoe read a letter from Jeanette Smith (attached). Ben stated that he shares in the confusion about the road name. He has always struggled with the name, either Upper Valley or Warren Road. He stated that he hadn't heard Kyler until Gary brought it forward. The preference of the road crew is Upper Valley, to provide continuity. Gail suggested Kyler Upper Valley.

Commissioner Notbohm moved to combine the names or name it Kyler Lane. Gary asked if they are going to do this, are they going to start right at Sloan's Lane. Barbara stated that it should, to represent the ranch, which was all the way down Boulder Hill. Commissioner Weber stated that he has one concern. He appreciates their efforts regarding the family name, but by doing this, are they stepping on the Warrens. Gail stated that the family is long gone. Barbara stated her grandmother used to live in a house that was known as the Warren house, but this was when she was a little girl. Ben stated that this needs some definition from the intersection of Muskrat to the frontage road.

Commissioner Notbohm moved that the name of the road from Muskrat to old highway 91 be Kyler Upper Valley. Commissioner Weber seconded. The motion carried.

#### DISCUSS DOG CONTROL ORDINANCE

Commissioner Lythgoe stated that they have a pretty extensive document. He'll let Commissioner Weber share some of the concerns that the sanitarian has with it. The document was prepared by the County Attorney. They recognize that the county needs to do something; they are looking at county-wide licensing with a fee. The fee would pay for a part-time dog catcher here in Boulder and in the south. The problem is that there are no impound facilities, which is something that they will need to deal with.

Commissioner Weber stated that Megan asked him to bring her concerns to the Commission, as she is not able to attend the meeting. One concern is that the proposed ordinance deals only with dogs, while cats spread more rabies through bites than dogs; she would also like to see ferrets

added. She is also concerned with some of the wording, as it is not in compliance with the veterinary compendium. She also feels that the Health Department and Health Officer need to be brought into the discussion. Commissioner Lythgoe stated that he thinks when Matt prepared this, he put it together with information gathered from other counties. Megan and Craig understand the need for this, as the county has a problem with dogs at large and vicious animals. The problem is that we don't have the staff to deal with this. Currently, it is mainly Megan that is dealing with the issue. The county is currently working with Lewis and Clark county, but they feel that they need more from us. The Commission will need to work with Lewis and Clark and other counties, this will need further discussion. This issue needs to be dealt with.

Commissioner Notbohm stated that this has been talked about for years. He recommends that they initiate some meetings and implement a dog licence fee as soon as possible. Whether they are dealing with our own staff or working with another county, it is going to cost. To put an officer and car on the road cost approximately \$75,000/year. It will cost at least that much for an animal control officer and rig. Commissioner Lythgoe stated that this is a good idea. They need to identify people to appoint to a task force, and asked if it should be county employees only or public members also. Commissioner Weber stated that, depending on what the veterinary compendium says, they would need to have at least Craig, Megan, the health nurse, and Matt.

Commissioner Notbohm stated that they had a serious attack last year, and asked what authority they currently have to deal with vicious animals. Commissioner Lythgoe stated that they have an ordinance, but it has no teeth. Commissioner Notbohm stated that the dogs certainly do. Commissioner Lythgoe stated that maybe Matt can do something in the interim. He stated that a couple citizen members would also be appropriate on the task force. Janie Wunderwald stated that she would be willing to volunteer. Commissioner Lythgoe stated that they will advertise for members, and also accept Janie.

Janie stated that she originally brought this issue forward. Her suggestion at time was to weave into the language of the ordinance subdivisions versus larger tracts of land. She noted it would be silly to make a rancher keep his dog confined. However, in her area, they have had five new dogs in the last four months, all large, all running loose. She stated that she would be honored to serve on the committee. Commissioner Lythgoe stated that this is a good point. There is no reason to make a rancher with 250 acres keep his dogs tied.

## **CALENDAR REVIEW**

- 5/26 Rancher's Roundtable - Whitehall - 6:30 a.m.  
Meeting with Road Supervisor and engineer regarding road standards - 1:00  
Health Board - 6:30
- 5/30 Holiday - county offices closed
- 6/01 Tour of old administration building at MDC - 3:00

## **COMMISSION REPORTS**

### **SOUTH HILLS DRIVE**

Commissioner Lythgoe stated that he met with Dr. and Mildie Kehr on Friday regarding South Hills Drive. He made arrangements for Ben and his counterpart in Lewis and Clark County, and Lewis and Clark County's engineer to meet on site. The engineer will come back with a price of what it will cost for him to figure what is to be done and what it will cost. It appears they may be some compromise, but Commissioner Lythgoe did let the Kehrs know that he will not go against Ben's recommendation. However, if Ben comes back with a compromise, the Commission will look at it. They did discuss the option of turnouts on the road, but the engineer shot that down.

### **MONTANA CITY SPORTS COMPLEX**

Commissioner Lythgoe stated that they got a copy of some significant correspondence from Fish, Wildlife and Parks to the Montana City School. This could have significant ramifications for the school.

### **CTAC**

Commissioner Weber reported on the CTAC meeting held on the 18<sup>th</sup>. The mine is up and going. Regarding the industrial park, it looks like terms have been reached for a 60-year lease.

### **SOLID WASTE SAFETY MEETING**

Commissioner Weber reported on the Solid Waste Safety meeting. They are trying to develop ways to protect the public and the workers. One way they are doing this is that the metal pile is no longer open to the public. They are also trying to keep people from getting too close to the boxes. Commissioner Lythgoe stated that he noticed a barrier at the Montana City site.

### **HEADWATERS**

Commissioner Weber stated that he attended a Headwaters meeting in Butte. They took a tour of what they are doing with grant monies. They are focusing on low income housing, and trying to attract people back uptown.

### **SOLID WASTE BOARD**

Commissioner Weber stated that the Solid Waste board is dealing with safety. Metal recycle is a big issue. They are discussing cards as a way to cut expenses from out of county dumpers. Commissioner Notbohm stated that with all the new license plates, it is hard to read.

### **ROAD STANDARDS**

Commissioner Weber stated that he spoke to a realtor from the Whitehall area regarding the road standards. She felt that it is good to take this slow. Most of the people the realtor has spoken to feel that the county is going in the right direction. Commissioner Lythgoe stated that he has had the same experience in the north end, speaking with realtors and developers.

### **FAIR BOARD**

Commissioner Notbohm reported on the fair board meeting. He stated that Carol Wortman was in attendance to promote a senior rodeo. They did one last year which was very successful, and they would like to do it again this year. He called Roberta Barrows regarding insurance for the event. She stated that if the event is sanctioned by the County, then they are covered by the County's insurance. The board seems to be in favor of this. They board is also excited that the transfer of the fairgrounds is close to completion. They hope to have more events throughout the summer.

### **ELECTED OFFICIAL/DEPARTMENT HEAD CONCERNS**

Commissioner Lythgoe stated that they need to set the salary compensation committee. It is to be comprised of three elected officials, the county attorney, the Commissioners and two citizens. Commissioner Notbohm stated that he would recommend Bonnie, Craig and one other. He noted that Patty is very busy in her office right now. Commissioner Lythgoe stated that last year, it was Bonnie, Craig and Patty. He suggested that Marilyn Craft be the other member.

Commissioner Notbohm moved to appoint Craig, Bonnie and Marilyn, along with the Commissioners, and the County Attorney to the salary compensation committee. Commissioner Weber seconded. The motion carried.

### **CORRESPONDENCE**

Commissioner Weber stated that they received a letter from Lee Alt regarding the speed study on Whitetail Road. He is pretty adamant that this is it, although he understands that the residents are very emotional about wanting the zones extended. Lee stated that if they still want to pursue changing the zones, they will need to go before the Traffic Commission. Commissioner Weber stated that he is willing to do this, if this is what the residents want. Commissioner Lythgoe stated that he has talked to MDT recently, and it is his impression that they have changed the whole procedure. He suggested that Commissioner Weber talk to Doug Baily, but his thinking is that it is not going to do any good to go to the Traffic Commission. Commissioner Weber stated that the residents are adamant, but Lee is also adamant that it can't be changed. Commissioner Lythgoe noted that they have done the speed study twice, which is unheard of.

The Commission also received a letter from Lucy Holmes regarding a Lewis and Clark celebration. She would like a fee waived, as they are a non-profit group. She will need to discuss this with Megan.

### **MEETING ADJOURNED**

**ATTEST:**

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**BONNIE RAMEY  
CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**CHUCK NOTBOHM, COMMISSIONER**

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**KEN WEBER, COMMISSIONER**